

RIGHTS & RESPONSIBILITIES

THE VIRGINIA FREEDOM OF INFORMATION ACT

Prepared for Members

Executive Directive 6: Governor's Task Force on Information Technology in Health Care

The act covers meetings of committees and subcommittees if they are created to perform delegated functions of the public body or to advise the public body. Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.

The Virginia Freedom of Information Act. 2.2-3700 – 2.2-3714 of the *Code of Virginia* guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials and public employees.

A public record is any writing or recording - - regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format - - that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Virginia Citizen FOIA Rights

- The right to request to inspect or receive copies of public records, or both
- The right to request that any charges for the requested records be estimated in advance
- the right to file a petition in district or circuit court to compel compliance with FOIA if it is believed FOIA rights have been violated

GETTING INFORMATION

FOIA information is available online: short version: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3700> & full text in Code: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC020200000370000000000000>

FOIA Advisory Council foiacouncil@leg.state.va.us, phone 804-225-3056 or toll free at 1-866-448-4100

Commonwealth Calendar www.vipnet.org./portal/cgi-bin/calendar.cgi includes all Boards and Committee meetings, including this Task Force

- Name of Board or Committee
- Date and time
- Location
- Links to available agenda
- Links to minutes
- Staff contacts
- Accessibility information

Regulatory Town Hall www.townhall.state.va.us/

Information on changes to regulations, including:

- Rules being drafted
- Rules proposed
- Newly adopted rules
- How to petition for a change in rules

MAKING A REQUEST FOR RECORDS

- Records can be requested by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
- From a practical perspective, it is helpful to put requests in writing. Allows a written record for both parties.
- Request should limit the information being sought with “reasonable specificity.”
- Request must ask for records or documents. FOIA gives the right to inspect or copy records, such as minutes; it does not apply to a situation in which general questions are asked about the work of a Task Force or a specific action taken.
- Electronic records are sent in the format used by the Task Force. For example, if someone requests records maintained in an Excel database, those records will be sent electronically, via e-mail or on a computer disk, or a printed copy as Excel
- To request records or minutes, direct the request to Craig Suro, Special Assistant, Secretary of Health and Human Resources, Post Office Box 1475, Richmond, Virginia 23218 craig.suro@governor.virginia.gov phone 804-786-7765

RESPONSIBILITIES IN RESPONDING TO FOIA REQUEST

- FOIA requires one of the following responses is made within a five-day period: records are provided in their entirety; records are withheld because records are subject to a specific statutory exemption and notification is sent of such exception; some of the records are provided and some redacted, if subject to an exemption; state in writing that it is an impossibility to respond in the five-day period, allowing seven additional working days to respond; petition the court for additional time if the volume of the request is very large. FOIA requires that every reasonable effort is made to produce the records before time is requested.

COMMON EXCEPTIONS

- Personnel records
- Records subject to attorney-client privilege
- Vendor proprietary information
- Records relating to the negotiation & award of a contract, prior to contract award
- Records of active investigations
- Tests of examinations used to license or certify individuals
- Applications for examination or licensure except to applicant

COSTS

FOIA allows a charge for the actual costs of responding to a request. Cost cannot include general overhead costs.

